

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
:
UNITED STATES OF AMERICA : **PRELIMINARY ORDER OF**
- v. - : **FORFEITURE AS TO**
: **SUBSTITUTE ASSETS**
DAMON BAILEY, : 21 Cr. 694 (JPC)
:
: Defendant.
----- x

WHEREAS, on or about November 10, 2021, DAMON BAILEY, (the “Defendant”), was charged in an Indictment, 21 Cr. 694 (JPC) (the “Indictment”), with bank robbery, in violation of Title 18, United States Code, Sections 2113(a) and 2 (Counts One and Two); firearms use, carrying and possession, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii), and 2 (Counts Three and Four); and felon in possession, in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2), and 2 (Count Five);

WHEREAS, on or about May 3, 2021, the Defendant pled guilty to Counts One, Two, Three, and Five of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegations with respect to Counts One, Two, and Five of the Indictment, and agreed to forfeit to the United States, among other things, a sum of money equal to \$5,661.00 in United States currency, representing proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, on or about May 3, 2022, the Court entered a Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment which, *inter alia*, imposed a money

judgment against the Defendant in the amount of \$5,661 (the “Money Judgment”), representing proceeds traceable to the offenses charged in Counts One and Two of the Indictment;

WHEREAS, to date, the entire Money Judgment entered against the Defendant remains unpaid;

WHEREAS, as a result of acts and/or omissions of the Defendant, the United States has not been able to locate, obtain or collect assets traceable to the proceeds of the Defendant’s offense, despite the exercise of due diligence in investigating the assets of the Defendant;

WHEREAS, the Government has identified the following specific asset in which the Defendant has an ownership interest:

- a) \$4,869 in United States currency, seized from the Defendant at the time of his arrest on or about October 26, 2021;

(the “Substitute Asset”); and

WHEREAS, the Government is seeking the forfeiture of all of the Defendant’s right, title and interest in the Substitute Asset.

NOW IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. All of the Defendant’s right, title and interest in the Substitute Asset is hereby forfeited to the United States of America, for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n).

2. Upon entry of this Preliminary Order of Forfeiture of Substitute Assets, the United States Marshals Service (or its designee) is hereby authorized to take possession of the Substitute Asset and to keep it in its secure, custody and control.

3. Upon entry of a Final Order of Forfeiture, the Substitute Asset shall be applied towards the satisfaction of the Money Judgment entered against the Defendant.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Assets Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the official government internet forfeiture site, www.forfeiture.gov, notice of this Preliminary Order of Forfeiture as to Substitute Assets and provide notice that any person, other than the Defendant in this case, claiming an interest in the Substitute Asset must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The notice referenced in the preceding paragraph shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Asset, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the Substitute Asset and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. The United States may also, to the extent practicable, provide direct written notice to any person, other than the Defendant, known to have an alleged interest in the Substitute Asset, as a substitute for published notice as to those persons so notified.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Substitute Assets, pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture as to Substitute Assets, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

Dated: New York, New York
January 23, 2023

SO ORDERED:



HONORABLE JOHN P. CRONAN
UNITED STATES DISTRICT JUDGE